

**In the  
Indiana Supreme Court**



STATE OF INDIANA <i>ex rel.</i>	)	Supreme Court No.
John CROSBY, <i>et al.</i> ,	)	31S00-1010-OR-615
Relators,	)	
	)	
v.	)	Trial Court Nos.
	)	31D01-1006-FD-454
THE HARRISON SUPERIOR COURT	)	31D01-1001-CM-49
and THE HON. ROGER D. DAVIS,	)	31D01-0906-CM-365
as Judge Thereof,	)	31D01-1006-CM-474
Respondents.	)	31D01-0908-CM-606

ORDER

Relators, by counsel, submitted a verified petition for writ of mandamus and prohibition seeking relief under the Rules of Procedure for Original Actions. Briefs opposing Relators' petition have been filed. Relators have tendered replies by fax transmission. The Court directs the Clerk to file Relators' replies.

Each member of the Court has had an opportunity to review the petition and application papers and has met in conference and had an opportunity to discuss the request for a writ.

The members of the Court conclude, unfortunately, that the level of professionalism exercised by both counsel and the trial court in the events underlying this original action falls short of the standard that other members of the legal profession and members of the public have a right to expect. This Court urges the trial court, prosecutor, and defense attorney to cooperate in finding effective ways of resolving scheduling issues that arise as criminal cases are set for trial.

This Court is not persuaded, though, that on this particular occasion the trial court has exceeded its jurisdiction or failed to act when under a clear duty to act or that this Court's intervention is warranted. Accordingly, the Court DENIES Relators' request for a writ of mandamus and prohibition. Motions to reconsider or petitions for rehearing are not allowed. Ind. Original Action Rule 5(C).

The Clerk is directed to send copies of this order to the Hon. Roger D. Davis, Judge, Harrison Superior Court; Dennis L. Byrd, Prosecuting Attorney, 1445 Gardner Lane NW, Suite 3101, Corydon, IN 47112; Bart M. Betteau, 1212 State Street, New Albany, IN 47150; and Gregory F. Zoeller, Attorney General of Indiana. The Clerk is also directed to post this order to the Court's website.

Done at Indianapolis, Indiana, this 29<sup>th</sup> day of October, 2010.

Randall T. Shepard  
Randall T. Shepard  
Chief Justice of Indiana

All Justices concur.